

LABOUR DEPARTMENT

The 20th October, 1987

No. 9/4/87-6Lab./8026.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s (1) Haryana Urban Development Authority, Sector 16, Faridabad (2) Executive Engineer, Division No. 2, Haryana Urban Development Authority, Faridabad.

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 168/1986

between

SHRI PADAM SINGH S/O SHRI MURARI C/O SHRI M. K. BHANDARI, KOTHI NO. 363 SECTOR-19, FARIDABAD AND THE MANAGEMENT OF M/S. (1) HARYANA URBAN DEVELOPMENT AUTHORITY, SECTOR-16, FARIDABAD AND (2) EXECUTIVE ENGINEER, DIVISION NO. 2, HARYANA URBAN DEVELOPMENT AUTHORITY, FARIDABAD

Present:

Shri M. K. Bhandari A. R. for the workman.

Shri Ram Parshad Clerk for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section-10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Padam Singh workman and the Management of M/s (1) Haryana Urban Development Authority, Sector-16, Faridabad and (2) Executive Engineer, Division No. 2, Haryana Urban Development Authority, Faridabad, to this Tribunal for adjudication :—

Whether the termination of services of Shri Padam Singh, is justified and in order? If not, to what relief is he entitled ?

2. On notices being given, the parties appeared.

3. The case of the petitioner is that he was appointed as Water Pump Attendant in Sub-Division No. 9 under Executive Engineer, Division No. 2, Haryana Urban Development Authority, Faridabad, with effect from 1st March, 1985. He alleged that his services were abruptly terminated on 1st March, 1986 without any notice or reason. He alleged that he has completed more than 240 days of service and has challenged the order of termination of his services being illegal and in utter dis-regard of provisions of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). He prayed for reinstatement with full back wages and continuity of services.

4. The reference was contested by the respondent who pleaded that the petitioner was appointed on daily wages and had left the job after February, 1986 by his own sweet will. It was also pleaded that the services of the petitioner was not continuous and there was a break in his service because in the past he has left the work by his own sweet will. The plea was also taken that the petitioner was a daily wageworker. Apart from it, the pleas were also raised that Haryana Urban Development Authority does not come in the definition of the industry, and the petitioner is not a workman and he is estopped by his own act and conduct in filing this application.

5. On the pleadings of the parties, the following issues were settled :—

(1) Whether the termination of service of Shri Padam Singh, is justified and in order? If not, to what relief is he entitled? OPM

(2) Whether HUDA does not fall within the definition of industries as alleged? OPM

Whether the petitioner does not come under the definition of the workman? OPM

(4) Whether the petitioner is stopped to file this application ? OPM

6. The petitioner came in the witness box as WW-1 where the respondent examined J. P. Aggarwal, S.D.C. of their establishment MW-1.

7. I have heard Shri M. K. Bhandari, Authorised Representative for the workman and Shri Ram Parshad, Clerk, Authorised Representative for the Management. My findings on the aforesaid issues are as under :—

Issue No. 1.

8. Padam Singh petitioner WW-1 deposed that he has joined on 1st March, 1985 on salary of Rs. 420 per month and worked upto 1st March, 1986 when his services were illegally terminated without assigning any reason. He stated that no retrenchment compensation was paid to him and persons are still working as Water Pump Operator in Haryana Urban Development Authority. He admitted that there was break of one month in his service period.

9. On the contrary, J. P. Aggarwal, S. D. C., MW-1 produced chart Ex. M-1 showing the period during which the petitioner has worked with them. He has not brought attendance register or muster rolls but admitted that the services of the petitioner were terminated in February, 1986.

10. In the present case, commencing from the date of termination and counting backward, the petitioner has rendered services for a period of more than 240 days within a period of 12 months and therefore, his case falls within the section 25-B (2)(a) of the Act and he shall be deemed to be in continuous service for a period of one year for the Chapter of V-A of the Act. The admission made by J. P. Aggarwal in cross-examination clinches the matter and the said admission is in the following words :

“The petitioner has worked for 303 days during the last 12 calendar months when calculated with reference to the date of termination. No retrenchment compensation or notice pay was given to the petitioner when his services were terminated.”

Admittedly the petitioner's services have been terminated without complying with Section 25-F of the Act inasmuch as no retrenchment compensation and wages in lieu of notice were ever paid to him at the time of termination of his service. Thus the order of termination is *void ab initio*, inoperative and invalid. So this issue is answered against the respondent management.

Issue No. 2

11. The term 'industry' has been given widest amplitude by the Hon'ble Supreme Court in its judgement between Bangalore Water Supply and Sewerage Board, Etc. etc. and A. Rajappa and other reported in 1978-1-LLJ-page 349. So viewed from the criteria laid down in this authority, the respondent is an industry as defined in Section 2 (j) of the Act. So this issue is answered against the respondent.

Issue No. 3

12. One of the essential condition of a person being a workman within definition of Section 2 (s) of the Act is that he should be employed to do work in the industry as defined in Section 2 (j) of the Act. As Haryana Urban Development Authority falls within the definition of industry, the petitioner certainly comes within the category of a workman. The issue is answered against the respondent.

Issue No. 4

13. This issue is not pressed during the argument and is answered against the respondent.

14. In the result I hold that the termination of services of Padam Singh Petitioner was neither justified nor in order and the petitioner is thus ordered to be reinstated in service with full back wages and continuity of service. The award is passed accordingly. No order as to cost.

S. B. AHUJA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 27th August, 1987.

Endst. No. 1127, dated the 31st August, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Act.

S. B. AHUJA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/4/87-6Lab/8237.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s Vivid Poly Packaging, 14/7, Mathura Road, Faridabad :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 177/1986

between

SHRI HUM LAL C/O CITU, 2/7, GOPI COLONY, OLD FARIDABAD AND THE
MANAGEMENT OF M/S VIVID POLY PACKAGING, 14/7, MATHURA ROAD,
FARIDABAD.

Present :

Shri S.C. Srivastva, A.R. for the workman.

None for the Management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana referred the following dispute between Shri Hum Lal Workman and the Management of M/s Vivid Poly Packaging, 14/7, Mathura Road, Faridabad to this Tribunal for adjudication :—

Whether the termination of Services of Shri Hum Lal, is justified and in order ? If not, to what relief is he entitled.

2. The case of the petitioner is that he was employed with effect from 3rd January, 1981 as Security Guard in the respondent Company. He was drawing wages of Rs. 400 per month. The petitioner alleged that the Management in order to victimise him denied him duty with effect from 3rd January, 1986 without any reason or justification and payment of compensation. He has challenged the order of the Management as being illegal, *mala fide* and violative of principles of natural justice. He has prayed that he be reinstated with full backwages and continuity of service.

3. On notices being given, the respondent did not appear and as such *ex parte* proceedings were ordered against the respondent.

4. The workman has appeared as his own witness.

5. I have heard Shri S.C. Srivastva, Authorised Representative of the workman and perused the record.

6. Shri Hum Lal workman as WW-1 has supported his case on oath. It is clear from his testimony that he had continuously worked from 3rd January, 1981 to 2nd January, 1986 with the respondent company when he was stopped from duty by the Management without any reason. The refusal of duty by the Management amounts to termination of services. He has worked for more than one year and his services could not be terminated without complying with mandatory provisions of 25-F of the Industrial Disputes Act, 1947 but this was not done by the Management as is apparent from the *ex parte* testimony of the workman. There are no reasons to disbelieve the workman particularly when the Management has not contested this case.

7. In the result I hold that the termination of service of the petitioner was neither justified nor in order and he is thus ordered to be reinstated with full back wages and continuity of service. An *ex parte* award is passed in favour of the petitioner accordingly.

Dated 22nd September, 1987.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1313 dated 30th September, 1987

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/4/87-6 Lab./8239.-- In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Western India Industries Limited, 55, Industrial Estate, Gurgaon Road, Gurgaon. —

BEFORE SHRI S.B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 191/1987

between

SHRI SUDHIR KUMAR C/O SHRI P. K. THAMPY, GENERAL SECRETARY B-II, IDPL TOWNSHIP, GURGAON AND THE MANAGEMENT OF M/S WESTERN INDIA INDUSTRIES LIMITED, 55, INDUSTRIAL ESTATE, PALAM, GURGAON ROAD, GURGAON.

Present : None.

AWARD

In exercise of the powers conferred by clause (d) of sub-Section (1) of section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana referred the following dispute between Shri Sudhir Kumar workman and the management of M/s Western India Industries Limited, 55, Industrial Estate, Palam Gurgaon Road, Gurgaon to this Tribunal for adjudication :—

Whether the termination of the services/retranchment of Shri Sudhir Kumar, is justified and in order ? If not, to what relief is he entitled ?

2. On notices being given, the parties appeared. Later on both the parties absented themselves and as such *ex parte* proceeding were ordered against them.

3. It is thus apparent that the workman is not interested in proceeding with this reference. Hence the present reference is dismissed for non-prosecution by the workman. The award is passed accordingly.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 4th September, 1987.

Endst. No. 1316, dated the 30th September, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.